

1905-021 Chancery Causes: Dona Collier vs. John Collier
Lee Co.

CA-Divorce

T-Vices

Health/Medicine

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for

Lee County, Virginia:

Your Oratrix, Dona Collier, humbly complaining, would show to your honor that she is now, and has been for the twelve months next preceding the institution of this suit, a citizen of Lee county, Virginia; that on the day of Dec., 1904, was lawfully married to one John Collier, of said county, and for several months lived and cohabited with him, ~~as his lawful wife~~, during which time she was to him a loving and faithful wife, but that she blushes to have it to relate, that he has been ~~so~~ ~~been~~ so unfaithful in his said marital relations with your oratrix, that he, from cohabitation with some other woman other than your oratrix, that he has contracted the most loathsome disease ^{which} with he has communicated to your oratrix, a disease so vile and loathsome that your oratrix would not name ^{it} under any circumstances, were it not for the purpose ^{of} getting relief from a connection worse than death, - syphilis, and then after communicating said disease to your oratrix, he has refused to furnish her the needed medical attention, until it may now be too late for your oratrix to be cured of same, and she is wasting away with the fearful disease. When she learned of said unfaithfulness, and realized the terrible condition ~~in~~ which she is in, she abandoned the home of the said collier and has not cohabited with him since.

Your oratrix will now show your honor that she is a poor woman, having no means with which to procure counsel to carry on this suit, or with which to maintain herself or to procure medical attention of which she is in such dire need; that the said John Collier has a good farm and plenty of personal property, in all he is probably worth five thousand dollars.

Your oratrix being remediless, save in ^a court of equity, her prayer therefore is that the said John Collier ^{made a party defendant - to this bill and} be required to answer this bill, but he need not do so under oath, that being waived, that upon a hearing your oratrix be granted a divorce from the bonds of matrimony, ^{or at least a divorce from bed and board} that the said John Collier be required to pay such ~~sum~~ ^{as} as your oratrix may need with which to fee ~~x~~

counsel, costs etc., of this suit, that she be allowed such a sum of money as may ^{be} temporarily necessary to support herself and to afford her such medical aid as she needs; that the said John Collier be required to pay your oratrix suitable alimony, that a restraining order be entered restraining said Collier from disposing of his said property until this suit is decided, that the sum decreed for counsel ^{fees} he be required to pay to Orr & Noel, and that all such other and further relief be granted your oratrix as may be just and right, and she will ever pray, etc.

Orr & Noel p.q.

Dona Collier
vs
John Collier } In Chancery.

This Cause came on this day to be heard in vacation at Big Stone Gap, Virginia upon the complainant's bill, as was argued by counsel for complainant, - as to temporary alimony, and suit money. It is therefore adjudged ordered and decreed that the complainant recover of the defendant one hundred and fifty dollars for temporary alimony and suit money, for which execution may issue. And it is further adjudged, ordered and decreed that the said defendant, John Collier be restrained, enjoined and inhibited from selling or disposing of any of his property real or personal, ~~except~~ in so far as it may be necessary to secure the money ~~above~~ ordered to be paid, until the future order of this Court. March 10, 1905 J. A. W. S. Judge

Dona Collier

vs { Bill in Chancery

John Collier.

1905-1st April Rules

Bill filed Spar. ex-
ecuted & Def's Ans.
filed.

" 2nd April Rules

Cause set for
hearing.

Costs: ✓

Clerk \$ 5.22

Tax 1.50

Atty 15.00

Shff 5.50
\$ 22.22

1900 to 1910

To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee County;

The demurrer and answer of John Collier to a bill in Chancery exhibited in your honor's court by Dona Collier,against your respondent.

And the said respondent by his attorney comes and says that the said bill of the said Complainant is not sufficient in law;but should furthur and other answer be required of your respondent,not waiving said demurrer and all just exceptions to said bill of complaint,and relying and insisting thereon,answering your respondent says:

That it is true that a few days before Christmas,1904,he was married to Dona Collier,the widow of Crit Collier. She was a woman then of about 39 years,and your respondent 48 years;she had three children,the youngest of which was about 2 years and your respondent had four children,the youngest of which was about 7years of age. Your respondent and the said Dona got along all right and there was no trouble between us;and there was no trouble between said children. About the first of Feby.,last,the said Dona complained of being sick and claimed there was trouble with her urinary organs,and was unable to retain her urine;she also complained of having a cold and was troubled with a cough. Your respondent applied immediately to Dr. M.B.Spencer,one of the ablest physicians of the county who prescribed for her a treatment,and the Urinary trouble she claimed was corrected; soon after this she complained of a pain in her side,and after complaining a day or two your respondent again went to the said Dr. Spencer and asked him to come to see said Dona,the call was made on Sunday,and the doctor being a little indisposed said that he could not go that day and owuld come on Monday,but he did not come.Your respondent then waited untill Wednesday and and he proposed to go after Spencer again;the said Dona objected and said she would not have him,your respondent then proposed to go for Dr.James Ewing, another competent and reliable physician,and the said Dona refused to allow your respondent to go for him and said she did not need any doctor,and said all that she needed and wanted was a bottle

of "Aryer' Cherry Pectoral", and your respondent proposed to send to the store and get what she wanted and she refused and said she did not want any of your respondent's money, and that she would send her own money; and she did send your respondent's son with her own money to R.J. Wood and Sons store and got the said medicine. She took the medicine and improved she claimed, and got so that she went about the house doing different kinds of work, milking the cows &c. Before she sent for and got the medicine above named a few days, she began telling that she was going to leave your respondent because she was not satisfied to live there and in about two weeks after she began telling the neighbors that she was going to leave, she told your respondent that she was going to leave, and in a few days did leave. Your respondent prevailed with her not to do so, that he did not want her to go, and told her if she wanted to go and visit her people a few weeks he would get a hack and take her and send along some provisions with her, and that she would get better and then she could come back home. Your respondent knew her people were poor and not able to feed and provide for her and her children and your respondent wanted her to be well taken care of and not impose upon her people. She said no she did not want your respondent to take her, and that when she left she was never coming back; your respondent though yet he might prevail with her, and asked her if she went away if he might not come and see her, and she said no, when she left she never wanted to see your respondent any more. On the 2nd day of March, 1905, she left your respondent against his will and without any cause whatever, and on the day she left she stated that your respondent had treated her right and that your respondent's children had treated her right, and she was not leaving for any cause of that kind, but said that she was not satisfied to live where we lived, she did not think it a healthy place and she did not think she would live long any way.

Your respondent most emphatically denies that he has ever had any venereal disease of any kind and most emphatically denies that he has had any sexual intercourse with any other woman during the their marital period, nor since that time, but your respondent alleges that he was a faithful husband, and kind and considerate toward her.

And he most emphatically denies that he communicated to her or any other venereal, or other disease, but your respondent alleged that he is a well and perfect man, and that he never in his life has had any of those loathesome venereal troubles. Your respondent alleges that the said allegations in said bill are all false and without foundation as to your respondent communicating to her any disease or having intercourse with any other woman.

Your respondent, as soon as he learned that he was charged by said complainant with communicating said disease, he at once went to Drs. M.B. and Will Spencer and had them to make an examination of him, and he here produces their certificate as exhibit "A", from which it will be seen that he is not affected with any disease of the kind, nor any trace of the disease.

Now your respondent would allege that the said the said Dona Collier has been herself guilty of adultery and has contracted said loathsome disease from some other man. Your respondent denies that he ever knew said woman was affected with said disease until she alleged it in here said bill, nor did your respondent even suspicion such a thing; she claimed to be troubled with urinary trouble, and nothing further, with those parts; and your respondent alleges that the said complainant is seeking to live in adultery and obtain from your respondent a support.

Your respondent denies the right of the complainant to recover from him support and maintenance, or any money to prosecute this suit, or obtain medical aid, because if she has such a disease as she alleges she has caught it from some other man, and surely it is not justice that your respondent should be compelled to contribute to a woman who has so grossly violated the laws of morals, the land and common decency. Your respondent also says that he is sorely aggrieved by the order entered in the said cause on the 16th day of March, 1904, whereby a judgement was rendered against your respondent for the sum of \$150.00, upon which execution has been issued. Your respondent is advised that your honor was without authority to enter a judgement in a cause that was not pending at that time in your honors court, not even for temporary alimony, the

statute provides that in cases pending the court may make an order requiring the husband to pay &c, but the cause must be pending, and he must have notice of the application, which your respondent denies; the said cause was not at that time pending, proceeds thereon having issued from the office of the clerk of your honor's court on the 22nd day of March, 1905; and an order to pay money to any person without notice of the application would be void, because both the constitution of the United States and of Virginia provides that "no person shall be deprived of his property ~~xxxxxx~~ without due process of law".

Your respondent further denies that he is under any obligation whatever to maintain and support the said Dona Collier, because she deserted your respondent, has been guilty of adultery and lewdness, by her own confession has contracted by her illicit conduct the most loathsome and dangerous disease in all the world, and is now living, no doubt in adultery, or has been.

The prayer therefore of your respondent is that the said execution as aforesaid, issued as aforesaid be stayed, and the sheriff enjoined from proceeding therewith until this matter can be determined as to who is in the right; that the restraining order be dissolved; that upon a hearing the court grant your respondent a divorce a vinculo matrimonae, that the said order entered in said cause as aforesaid be set aside, and the judgment therein rendered be set aside; that the payer of the said complainant for alimony be refused; and all other and further relief granted your respondent that the nature of his answer herein and his rights may demand, and he will ever pray &c.

Virginia, Lee County, to wit:

I, M.E. Flanary, deputy Clerk for the Circuit Court for Lee county, do hereby certify that John Collier this day made oath before me that the statements and representations made in the foregoing answer are true to the best of his knowledge and belief. Given under my hand this the 25th day of March, 1905.

M.E. Flanary D.C.

Daniel Ballier Plaintiff
against
John Ballier. Defendant
In chancery.

It being suggested that the plaintiff has departed this life since the institution of this suit, and that the defendant has paid to plaintiff's counsel the sum of \$50.00, suit money, heretofore ordered to be so paid, It is ordered that this cause be stricken from the docket.

4 50
72
\$5.22

Damie Collier
Order Final.
John Collier

Entered in C.O.B.
No-8-p-32-

Enter this deed.
H. W. Sherr
May 17th 1905.

Dona Collier, Complainant,)
 vs) In Chancery.
 John Collier, Defendant,)

This case came on this day to be heard in vacation, at Wise Court House on the 3rd day of April, 1905, upon the bill of the complainant and the answer of the defendant, and the exceptions thereto, and the motion of the defendant to set aside the order entered in said cause on the 15th day of March, 1905, directing the said defendant to pay to the ~~defendant~~ ^{Complainant} one hundred and fifty dollars, and was argued by counsel. On consideration of all which, and by agreement of the counsel for the complainant and the defendant, so much of the said order, as directs the said defendant to pay to the said complainant one hundred and fifty dollars, and awarding execution thereon, is hereby set aside. And by agreement of counsel for the complainant and the defendant, and the said John Collier is hereby directed and ordered to pay to Orr & Noel, attorneys for said complainant the sum of fifty dollars, ^{for out-money} on which execution may issue on application of said Orr & Noel. And this cause is continued.

H. A. W. S. I. W.

Judge of the Circuit Court for Lee County.

The foregoing may be entered on the order of the Court without the presence of counsel for either party

*Orr & Noel, Attys for
 Dona Collier.
 Pennington Bros Attys for
 John Collier Resp.*

Entered in C.O.B.
No. 8, page 10—

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

John Ballier

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on
the *first* Monday in *April*, 190*5*, to answer a bill in chancery exhibited against *him*
in our said Court by David Ballier

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *22nd*
day of *March*, 190*5*, and 1*29th* year of the Commonwealth.

A Copy, Teste:

_____, Clerk.

H. C. T. Ewing, Clerk.
By M. E. Haskins d.c.

